

Message Text

PAGE 01 STATE 090970
ORIGIN L-03

INFO OCT-01 EUR-12 EA-10 IO-13 ISO-00 LAB-04 SIL-01
COME-00 SIG-03 /047 R

DRAFTED BY L/UNA:AKRECZKO/DOL:TLINSENMEYER:OF
APPROVED BY IO:CWMAYNES
DOL:JQUACKENBUSH
IO/LAB:JLMILLS
S/IL:DGOOD
EUR:GBAKER
COMM:(BGID(BDBD):LBRILL(INFO)
-----060086 081600Z /66

R 080229Z APR 78
FM SECSTATE WASHDC
TO USMISSION GENEVA
AMEMBASSY OTTAWA
AMEMBASSY PARIS
INFO AMEMBASSY BRUSSELS
AMEMBASSY BONN
AMEMBASSY ROME
AMEMBASSY LUXEMBOURG
AMEMBASSY THE HAGUE
AMEMBASSY LONDON
AMEMBASSY COPENHAGEN
AMEMBASSY DUBLIN
AMEMBASSY CANBERRA
AMEMBASSY WELLINGTON
AMEMBASSY TOKYO
AMEMBASSY OSLO
AMEMBASSY STOCKHOLM
AMEMBASSY BERN
AMEMBASSY HELSINKI
AMEMBASSY VIENNA
AMEMBASSY REYKJAVIK
AMEMBASSY MADRID
AMEMBASSY LISBON
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E.O. 11652: NA

TAGS: ILO, ELAB, PORC

SUBJECT: US VIEWS ON ILO DUE PROCESS PROPOSALS

REF: STATE 064501

1. ILO WORKING PARTY ON STRUCTURE SESSION FEB. 6-17 DID NOT REACH FINAL AGREEMENT ON PROPOSAL TO AMEND ARTICLE 17 OF ILO CONFERENCE STANDING ORDERS DEALING WITH SCREENING OF DRAFT RESOLUTIONS WHICH VIOLATE DUE PROCESS. ISSUE WILL ALMOST CERTAINLY BE DISCUSSED AGAIN DURING WORKING PARTY SESSIONS SCHEDULED FOR APRIL 24-29 AND MAY 29-30. THIS MESSAGE IS SENT PURSUANT TO THE LAST SENTENCE OF PARA. 3, REFTEL.

2. ACTION ADDRESSEES SHOULD INFORM FOLLOWING HOST GOVERNMENT OFFICIALS (OR THEIR SUBSTITUTES) OF US VIEWS ON PROPOSED AMENDMENTS AND REPORT THEIR REACTIONS: MISSION GENEVA SHOULD CONTACT DANISH AMBASSADOR KASTOFT, CHAIRMAN OF EC-9; EMBASSY OTTAWA SHOULD CONTACT JOHN MAINWARING, CHAIRMAN OF IMEC; AND EMBASSY PARIS SHOULD CONTACT HUBERT DELABRE, MEMBER OF THE SUBGROUP ON ARTICLE 17, WORKING PARTY ON STRUCTURE AND SPOKESMAN FOR IMEC.

3. INFO ADDRESSEES NEED NOT CONTACT HOST GOVERNMENT OFFICIALS BUT MAY DRAW ON THIS MESSAGE IF SUBJECT ARISES. EMBASSY BERN MAY WISH TO RESPOND TO REQUEST OF AMB. POMETTA FOR ADDITIONAL INFORMATION (BERN 1347).
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4. COMMENTS WHICH FOLLOW RELATE TO PROPOSED AMENDMENT TO ARTICLE 17 OFFERED BY IMEC GROUP, AS AMENDED BY G-77.
TEXT OF PROPOSED AMENDMENT FOLLOWS:

"REPLACE PARAGRAPH 1 OF ARTICLE 17 OF THE STANDING ORDERS OF THE INTERNATIONAL LABOR CONFERENCE BY THE FOLLOWING:

1. (1) NO RESOLUTION REFERRING TO A MATTER NOT INCLUDED IN AN ITEM ON THE AGENDA OF THE CONFERENCE SHALL BE MOVED AT ANY SITTING OF THE CONFERENCE, UNLESS A COPY OF THE RESOLUTION HAS BEEN DEPOSITED WITH THE DIRECTOR-GENERAL OF THE INTERNATIONAL LABOR OFFICE AT LEAST 15 DAYS BEFORE THE OPENING OF THE SESSION OF THE CONFERENCE, BY A DELEGATE TO THE CONFERENCE.

(2) WHERE THE DIRECTOR-GENERAL FINDS THAT A RESOLUTION IS OF A CONDEMNATORY NATURE AGAINST A MEMBER STATE, HE SHALL PROVISIONALLY WITHHOLD CIRCULATION OF THE RESOLUTION AND SHALL IMMEDIATELY INFORM EACH OF THE THREE GROUPS OF THE CONFERENCE TO ENABLE THEM TO ELECT THEIR REPRESENTATIVES TO THE COMMITTEE OF SEVEN REFERRED TO IN SUBPARAGRAPH 4 BELOW.

(3) EXCEPT FOR ANY RESOLUTION THE CIRCULATION OF WHICH HAS BEEN PROVISIONALLY WITHHELD IN ACCORDANCE WITH SUBPARAGRAPH (2) OF THIS PARAGRAPH, COPIES OF ALL RESOLUTIONS SHALL BE AVAILABLE TO DELEGATES AT THE INTERNATIONAL

LABOR OFFICE 13 DAYS BEFORE THE OPENING OF THE SESSION OF THE CONFERENCE.

(4) ANY RESOLUTION THE CIRCULATION OF WHICH HAS BEEN PROVISIONALLY WITHHELD IN ACCORDANCE WITH SUBPARAGRAPH (2) OF THIS PARAGRAPH SHALL BE SUBMITTED BY THE DIRECTOR-GENERAL TO A COMMITTEE OF SEVEN, TO BE COMPOSED OF THE OFFICERS OF THE CONFERENCE AND ONE REPRESENTATIVE OF EACH LIMITED OFFICIAL USE
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OF THE THREE GROUPS OF THE CONFERENCE, WITH A REPORT STATING WHETHER THE MATTERS REFERRED TO IN THE RESOLUTION HAVE BEEN EXAMINED IN ACCORDANCE WITH AN ESTABLISHED ILO PROCEDURE AND, IF SO, INDICATING THE STAGE REACHED IN THE EXAMINATION AND ANY CONCLUSIONS ARRIVED AT. THE COMMITTEE OF SEVEN SHALL DECIDE, NOT LATER THAN 48 HOURS AFTER THE OPENING OF THE CONFERENCE, WHETHER THE RESOLUTION SHALL BE CIRCULATED.

(5) SUBJECT TO SUBPARAGRAPH (6) OF THIS PARAGRAPH, A RESOLUTION SHALL NOT BE CIRCULATED IF THE COMMITTEE FINDS THAT IT CONDEMNS A MEMBER STATE ON GROUNDS WHICH ARE NOT BASED ON THE CONCLUSIONS OF AN EXAMINATION OF THE MATTER IN ACCORDANCE WITH AN ESTABLISHED ILO PROCEDURE, SUCH AS ONE OF THOSE PROVIDED FOR IN ARTICLES 24 TO 34 OF THE CONSTITUTION OF THE ORGANIZATION, THE SPECIAL PROCEDURE CONCERNING INFRINGEMENT OF TRADE UNION RIGHTS, OR THE PROCEDURE FOR THE EXAMINATION OF REQUESTS FOR SPECIAL SURVEYS ON SITUATIONS CONNECTED WITH THE ELIMINATION OF DISCRIMINATION IN EMPLOYMENT.

(6) IN CERTAIN EXCEPTIONAL CASES, THE COMMITTEE OF SEVEN SHALL DECIDE, BY A MAJORITY OF AT LEAST FIVE OF ITS MEMBERS, WHETHER A RESOLUTION WHICH FALLS WITHIN THE TERMS OF SUBPARAGRAPH 5 OF THIS PARAGRAPH SHOULD NONE THE LESS BE DISTRIBUTED, NOTABLY, IN CASES OF EXTREME URGENCY OR WHERE THE PROCEDURES ALREADY UNDER WAY DEMONSTRATE THAT NO CONCRETE RESULT CAN ANY LONGER BE COUNTED ON THE PART OF THE STATE CONCERNED.

(7) THE COMMITTEE OF SEVEN SHALL INFORM THE AUTHOR OF THEIR DECISION AND OF THE REASONS THEREFOR. IF THE DECISION IS THAT THE RESOLUTION SHALL NOT BE CIRCULATED, IT LIMITED OFFICIAL USE
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SHALL BE OPEN TO ITS AUTHOR TO AMEND IT TO STANDARDS OF ACCEPTABILITY. IF THE DECISION IS THAT THE RESOLUTION MAY BE CIRCULATED, IT SHALL BE PUBLISHED WITHOUT DELAY.

ADD THE FOLLOWING NEW PARAGRAPH BETWEEN PARAGRAPHS 9 AND 10 OF ARTICLE 17 OF THE STANDING ORDERS OF THE CONFERENCE:

"A MEMBER OF THE RESOLUTIONS COMMITTEE MAY REFER TO THE COMMITTEE OF SEVEN THE QUESTION WHETHER A PROPOSED AMENDMENT TO A RESOLUTION, IF ADOPTED, WOULD BRING THE RESOLUTION WITHIN THE TERMS OF SUBPARAGRAPH (5) OF PARAGRAPH 1 OF THIS ARTICLE. THE COMMITTEE OF SEVEN SHALL TAKE A DECISION WITHIN 48 HOURS; SUBPARAGRAPHS (5) TO (7) OF PARAGRAPH 1 SHALL APPLY MUTATIS MUTANDIS. PENDING CONSIDERATION OF THE QUESTION BY THE OFFICERS THE AMENDMENT IN QUESTION SHALL NOT BE CONSIDERED BY THE RESOLUTIONS COMMITTEE."

5. US BELIEVES THRUST OF PROPOSED AMENDMENT REPRESENTS POSITIVE STEP AND CLEARLY RECOGNIZES PRINCIPLE OF DUE PROCESS WITH RESPECT TO CONDEMNATORY RESOLUTIONS. LANGUAGE RELATING TO PROPOSED AMENDMENTS TO A RESOLUTION REPRESENTS IMPORTANT IMPROVEMENT OVER PREVIOUS VERSIONS BY CLOSING WHAT MIGHT HAVE BEEN SIGNIFICANT LOOPHOLE IN PROCEDURES.

6. WITH REFERENCE TO SUBPARAGRAPH (4) WE BELIEVE THAT ANY MEMBER OF THE COMMITTEE OF SEVEN WHO IS A CITIZEN OF A COUNTRY NAMED IN A CONDEMNATORY RESOLUTION OR A SPONSOR OF SUCH RESOLUTION SHOULD BE DISQUALIFIED FROM PARTICIPATING IN DISCUSSION OF RECEIVABILITY.

7. WE ARE CONCERNED THAT WORD "CONDEMNS" IN SUBPARA (5) OF THE PROPOSED AMENDMENT MIGHT BE READ NARROWLY, WITH RESULT THAT A RESOLUTION WHICH "DEPLORES" OR OTHERWISE CRITICIZES A COUNTRY WITHOUT A PRIOR INVESTIGATION WOULD NOT BE WITHIN PURVIEW OF THE AMENDMENT. WE THEREFORE URGE LIMITED OFFICIAL USE
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SUBSTITUTION OF WORD "CRITICIZES" FOR WORD "CONDEMNS". IF CHANGE IS NOT ACHIEVABLE, IMEC SHOULD WORK WITH OTHER LIKE-MINDED STATES TO BUILD A LEGISLATIVE HISTORY WHICH CLEARLY INDICATES THAT WORD "CONDEMNS" IS TO BE INTERPRETED BROADLY, COVERING ALL RESOLUTIONS OF A CRITICAL NATURE.

8. IN GENERAL, US IS OPPOSED TO PROVISION IN SUBPARA (6) OF PROPOSED AMENDMENT PERMITTING CIRCULATION OF CONDEMNATORY RESOLUTIONS WHICH VIOLATE DUE PROCESS IN EXCEPTIONAL CASES. IN PARTICULAR, LANGUAGE RELATING TO "EXTREME URGENCY" AND "NO CONCRETE RESULT" SEEMS EXCESSIVELY VAGUE AND COULD CONSTITUTE GROUNDS FOR FAIRLY REGULAR PATTERN OF CONDEMNATORY RESOLUTIONS AGAINST UNPOPULAR GOVERNMENTS. MOREOVER, THE DRAFTING OF THE PROVISION IS SUCH THAT URGENT RESOLUTIONS, ETC. ARE ONLY EXAMPLES OF RESOLUTIONS FOR WHICH EXCEPTIONS CAN BE GRANTED; THERE IS NO CLEAR LIMITA-

TION ON CIRCUMSTANCES IN WHICH OTHER RESOLUTIONS MIGHT ALSO BE EXCEPTED. IF EXCEPTIONS TO THE PROHIBITIONS ON CONDEMNATORY RESOLUTIONS WITHOUT PRIOR INVESTIGATION ARE INCLUDED, THE EXCEPTIONS SHOULD BE DRAFTED AS PRECISELY AS POSSIBLE.

9. WE CAN UNDERSTAND AN EXCEPTION FOR SITUATIONS IN WHICH THE COUNTRY BEING CRITICIZED IS UNDULY DELAYING THE INVESTIGATION. WE SUGGEST THE FOLLOWING LANGUAGE: "THE COMMITTEE OF SEVEN MAY DECIDE, BY A MAJORITY OF AT LEAST 5 OF ITS MEMBERS, WHETHER A RESOLUTION WHICH FALLS WITHIN THE TERMS OF SUBPARAGRAPH 5 OF THIS PARAGRAPH SHOULD NONETHELESS BE DISTRIBUTED IF (1) THE GOVERNMENT WHICH IS SUBJECT TO CONDEMNATION IN THE RESOLUTION HAS UNDULY DELAYED EFFORTS TO INVESTIGATE ALLEGATIONS THROUGH AN ESTABLISHED ILO PROCEDURE."

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10. WERE THE US A PARTICIPANT IN THE WORKING PARTY, WE WOULD OPPOSE AN EXCEPTION FOR "URGENT" SITUATIONS BECAUSE OF THE DIFFICULTY IN DEFINING THE TERM AND ACCORDINGLY THE DIFFICULTY IN LIMITING THE EXCEPTION'S APPLICATION. OUR FIRST POSITION WOULD BE THAT THERE SHOULD BE NO SUCH

EXCEPTION. AS A SECOND POSITION, WE WOULD PREFER THAT ANY DETERMINATION AS TO WHETHER AN "URGENT" SITUATION EXISTS BE MADE UNANIMOUSLY BY THE COMMITTEE OF SEVEN.

11. AS A THIRD POSITION, WE COULD ULTIMATELY ACCEPT THE CREATION OF AN "URGENT" EXCEPTION, EVEN WITH THE DETERMINATION MADE BY A MAJORITY OF FIVE, IF IT WERE CAREFULLY DRAFTED. WE SUGGEST THE FOLLOWING: "THE COMMITTEE OF SEVEN MAY DECIDE, BY A MAJORITY OF AT LEAST 5 OF ITS MEMBERS, WHETHER A RESOLUTION WHICH FALLS WITHIN THE TERMS OF SUBPARAGRAPH 5 OF THIS PARAGRAPH SHOULD NONETHELESS BE DISTRIBUTED IF...(2) THE CONDEMNATION IS FOR AN ACTIVITY WHOSE EXISTENCE IS UNQUESTIONED; THE ACTIVITY CONSTITUTES AN ESPECIALLY EGREGIOUS VIOLATION OF ILO STANDARDS; EFFECTIVE ACTION WOULD BE PRECLUDED BY AWAITING THE CONCLUSION OF AN ILO INVESTIGATION THROUGH ESTABLISHED PROCEDURES; AND AN EXPEDITED INVESTIGATIVE PROCEDURE CANNOT BE PROVIDED."

12. WE SUGGEST THAT THE FOLLOWING SENTENCE BE INSERTED BETWEEN THE SECOND AND THIRD SENTENCES OF SUBPARAGRAPH (7): "THE AMENDED DRAFT RESOLUTION SHALL BE SUBMITTED BY THE AUTHOR WITHIN 48 HOURS OF BEING ADVISED BY THE COMMITTEE OF THE DECISION NOT TO CIRCULATE THE RESOLUTION."

13. THE ABOVE SUGGESTIONS ARE MADE IN AN EFFORT TO CON-

TRIBUTE TO IMEC EFFORTS TO NEGOTIATE A SOLUTION TO A
COMPLEX PROBLEM. ACTION ADDRESSEES SHOULD ACKNOWLEDGE
THAT SOME OR ALL OF THE ABOVE CONCERNS MAY ALREADY HAVE
BEEN CONSIDERED IN IMEC CAUCUS OR IN WORKING PARTY
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MEETINGS NOT ATTENDED BY A US OBSERVER. VANCE

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ORIGIN IO-14

INFO OCT-01 ISO-00 /015 R

66011
DRAFTED BY:IO/LAB:JLMILLS
APPROVED BY:IO:GADALLEY
-----079233 111416Z /72
R 110628Z APR 78
FM SECSTATE WASHDC
INFO AMEMBASSY CAIRO 0000

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FOL STATE 090970 SENT ACTION GENEVA OTTAWA PARIS INFO BRUSSELS
BONN ROME LUXEMBOURG THE HAGUE LONDON COPENHAGEN DUBLIN
CANBERRA WELLINGTON TOKYO OSLO STOCKHOLM BERN HELSINKI VIENNA
REYKJAVIK MADRID LISBON APR 8, 1978 REPEATED TO YOU QUOTE

LIMITED OFFICIAL USE STATE 090970

E.O. 11652: NA

TAGS: ILO, ELAB, PORG

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REF: STATE 064501

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PROCESS WITH RESPECT TO CONDEMNATORY RESOLUTIONS. LANGUAGE RELATING TO PROPOSED AMENDMENTS TO A RESOLUTION REPRESENTS IMPORTANT IMPROVEMENT OVER PREVIOUS VERSIONS BY CLOSING WHAT MIGHT HAVE BEEN SIGNIFICANT LOOPHOLE IN PROCEDURES.

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Message Attributes

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Concepts: RELATIONS WITH INTERNATIONAL ORGS, INTERNATIONAL LABOR ORGANIZATIONS, RESOLUTIONS
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Copy: SINGLE
Draft Date: 08 apr 1978
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Disposition Approved on Date:
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Enclosure: n/a
Executive Order: 11652 NA
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Expiration:
Film Number: D780152-0772
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From: STATE
Handling Restrictions: n/a
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Litigation History:
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Message ID: 9636bda6-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 10
Previous Channel Indicators:
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Previous Handling Restrictions: n/a
Reference: STATE 064501
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags: ANOMALY
Review Date: 27 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2829751
Secure: OPEN
Status: NATIVE
Subject: US VIEWS ON ILO DUE PROCESS PROPOSALS
TAGS: ELAB, PORG, ILO
To: GENEVA OTTAWA MULTIPLE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/9636bda6-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
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20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014